



Task Force Report

Senate Bill 13-227 Recommendations

Concerning methods to protect the victim of a sexual assault in cases where a child was conceived as a result of the sexual assault.

Task Force Co-Chairs:

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November 27, 2013

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Transmittal Letter from Co-Chairs

November 27, 2013

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Senator Lucia Guzman
Chair, Senate Judiciary Committee
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Honorable Leaders of the State of Colorado:

We hereby deliver to you the final report of the Senate Bill 13-227 Task Force. The Task Force, designed by the General Assembly in SB 13-227 Part 5, *Task Force on Children Conceived by Rape*, was convened to study the issues associated with parental rights in cases in which there are allegations that a sexual assault occurred, a conviction of or prosecution for sexual assault has not occurred, and a child has been conceived as a result of the alleged sexual assault. According to the U.S. Justice Department’s *National Crime Victimization Survey*, sexual assault is one of the most underreported crimes in America. Because rape may result in pregnancy, it is of the utmost importance to ensure protections for victims and their children.

SB 13-227 notes that it is the intent of the General Assembly that the Task Force makes recommendations on future legislation to address these concerns while creating protections for victims. The Task Force was directed to study 15 issues, identified as letters *a-o* within the bill. SB 13-227 additionally directed the Task Force to complete its work no later than December 1, 2013 and report its analysis, recommendations and findings to you by that date. Thanks to the dedication and thoughtful work of task force members, we are pleased to report that we have accomplished much in a very short time.

The Task Force was charged with analyzing numerous scenarios with varying circumstances related to children conceived by rape regardless of conviction or allegation, including termination of parental rights, allocation of parental

responsibilities, child support and adoption.

The enclosed report offers our analysis including recommendations, most of which now need to be enacted into law by the Colorado General Assembly or developed into administrative rules by various state departments. We fully appreciate that these recommendations will now need to be perfected through the legislative and rulemaking processes and we offer to you the support and expertise of Task Force members, as you need them, in the weeks and months ahead.

The Task Force included:

- A representative of a statewide sexual assault coalition
- A representative of a statewide domestic violence coalition
- An expert in the federal “Indian Child Welfare Act”
- A representative of a statewide organization representing children’s advocacy centers
- A representative of a statewide disability rights organization
- A representative of a statewide organization that advocates on behalf of crime victims, the department of human services who is familiar with child welfare, adoption and child support enforcement
- A representative of the Office of the Child’s Representative appointed by Chief Justice of the Colorado Supreme Court
- A representative of the Judicial Branch appointed by the Chief Justice of the Colorado Supreme Court
- A representative of the Attorney General’s Office appointed by the State Attorney General
- A representative of County departments of social services who works in child protective services appointed by the Colorado Counties, Inc.
- A representative from the Family Law section of the Colorado Bar Association who is familiar with family law and adoption law appointed by the Colorado Bar Association
- A representative from the Juvenile Law section of the Colorado Bar Association appointed by the Colorado Bar Association
- A representative from the Criminal Law section of the Colorado Bar Association who is a criminal deference attorney appointed by the Colorado Bar Association
- A representative appointed by the Colorado District Attorneys’ Council
- A representative of a County Department of Human Services
- A mother of a child conceived by rape, victim of sexual assault

The first meeting of the Task Force occurred on July 18, 2013 during which two co-chairs were elected and three subcommittees were determined.

The three subcommittees, comprised of Task Force members, met regularly between

July 20 and November 18, 2013 as both sub-committees and the full Task Force. The subcommittees developed and drafted sample recommendations, which were further vetted, revised, adopted or rejected in the meetings of the Task Force. All meetings of the Task Force and its working groups were open to the public, and there was time set aside at each of the meetings for public input and comment.

Although the Task Force included many diverse perspectives, each member remained faithful to the General Assembly's charge to thoroughly study the issues associated with parental rights in cases in which there are allegations that a sexual assault occurred, a conviction of or prosecution for sexual assault has not occurred, and a child has been conceived as a result of the alleged sexual assault. All of the recommendations in this report were approved by at least a majority vote and many represent a consensus view. Where there was a minority opinion, it is so noted in the final report. Members of the Task Force concluded their work with the understanding that, they had played a meaningful role in protecting children conceived by rape in the state of Colorado.

Respectfully submitted,



Karen Moldovan
Program Manager
Colorado Coalition
Against Sexual Assault



Dorothy Macias
Staff Attorney
Office of the Child's
Representative

Executive Summary

The Task Force recommendations seek to establish comprehensive analysis, guidance, decision- supporting rationale and additional considerations regarding methods to protect victims of sexual assault in cases where a child was conceived as a result of the sexual assault. Senate Bill 13-227 puts forth both the areas of expertise that should be engaged in the Task Force work and specific issues for the Task Force to study and make recommendations to the General Assembly regarding for future legislation. These recommendations concern parental rights of the parties involved in those cases in which there are allegations that a sexual assault occurred, a conviction of or prosecution for sexual assault has not occurred, and a child has been conceived as a result of the alleged sexual assault.

In addition to the recommendations regarding the issues below, the Task Force analyzed and designed a process for both termination and allocation of parental responsibilities for the parties involved in those cases in which there are allegations that a sexual assault occurred, a conviction of or prosecution for sexual assault has not occurred, and a child has been conceived as a result of the alleged sexual assault. This is letter (a).

The remaining issues referenced within SB 13-227 are as follows:

- b) What mechanisms and due process protections can be established for the court to limit, terminate parental rights, make decisions about allocation of rights and responsibilities of the parents and issue protective no-contact orders.
- c) What burden of proof should be used by the court in making the findings?
- d) The unique considerations and challenges that are presented by cases involving domestic violence.
- e) The unique considerations and challenges that are presented by cases where the person who committed or is alleged to have committed the sexual assault is a woman and the woman becomes impregnated and conceives a child.
- f) How parental rights should be determined and addressed through dependency or neglect proceedings in the juvenile justice system.
- g) How parental responsibilities should be allocated in domestic relations cases brought under article 10 of Title 14, C.R.S.
- h) How to address the visitation rights of grandparents
- i) How the rights of parents and children are affected by the Federal “Indian Child Welfare Act”, 25 U.S.C., Chapter 21
- j) The necessity of obtaining consent from both biological parents to the adoption of the child and how to obtain that consent.
- k) Whether and how to allow a birth parent to relinquish the child through an expedited relinquishment procedure for a child under one year of age and

seek the termination of the parent –child relationship of the other parent who is alleged to be the perpetrator of sexual assault so that the child may legally be available for adoption.

- l) With respect to the alleged perpetrator’s parental rights, the advantages and disadvantages of and comparisons of not allocating parental responsibilities including parenting time and decision-making responsibilities, to a parent alleged or found to be a perpetrator; or not allocating parental responsibilities, including parenting time and decision-making responsibilities, to a parent alleged or found to be a perpetrator, and leaving the parent’s obligation to provide child support for the child intact; or terminating all parental rights and responsibilities of a parent alleged or found to be a perpetrator, including not allocating parental responsibilities regarding parenting time and decision-making responsibilities and terminating all obligations to provide child support for the child.
- m) The feasibility of allowing the victim to exercise parental choice about whether the obligations for child support of the other parent are left intact or eliminated including balancing the rights of the child to be financially supported with the victim’s choice to waive child support, and including an examination of whether such a choice can be waived in circumstances in which the child would qualify for public assistance benefits
- n) The resources and training needed to train domestic relations staff in the Judicial Branch who work with the parties with providing resources and training.
- o) The impact of the process created in section 19-5-105.5, C.R.S., upon the child welfare system, including the impact on the collection of fees for children placed in foster care, and upon the collection and enforcement of child support obligations

Several of the issues put forth in SB 13-227 already have procedure in place as a result of existing statute, case law and Colorado Rules of Civil/Juvenile Procedure. If the Task Force determined that no change was needed to existing statute it is noted accordingly. Where the Task Force determined additional considerations to be needed, such considerations have been included. On some issues, the Task Force was unable to reach consensus and a minority opinion was expressed. When a decision was split, both sides of the discussion are included in the final report. If rationale was determined to be of importance for further clarification of the recommendation(s), it was included as well.

Of the issues included in SB 13-227 for research and recommendation, it was noted that persons living with disabilities were not referenced. Persons with disabilities are victimized by crime at much higher rates than the rest of the population, and they are often targeted specifically because of their disabilities. Violent crimes against these victims include rape/sexual assault, robbery, aggravated assault, and intimate partner

violence. As compared to other population groups, victims with disabilities experience higher rates of victimization by persons known to them, and they report crime less frequently, often because of the nature of their disabilities, such as mental disabilities or physical or emotional illness. Appendix B has been included in this report to address the Person Centered Best Practice Paradigm that is a critical frame of reference when reviewing the recommendations herein.

Within the Task Force report, recommendations are noted in blue with rationale and additional considerations in black. All issues identified by Senate Bill 13-227 have been included preceding the associated recommendation and/or analysis.

Members of the Task Force remain available to clarify, describe and/or answer any questions upon review of the final report.

SB 13-227 and the Establishment of the Task Force

The Task Force was established in Section 12, Part 5 of SB13-227. This section, entitled “Task Force on Children Conceived by Rape” notes that in order to address unresolved and difficult policy issues related to parental rights in circumstances in which a conviction occurred and also those circumstances in which a conviction did not occur, related to termination and allocation of parental responsibilities and to protect victims of sexual assault in cases where a child was conceived as a result of the sexual assault a Task Force should be established.

The General Assembly further determined that it would be beneficial to convene a Task Force of experts to review and evaluate the process in section 19-5-105.5 C.R.S. and to study the issues associated with parental rights in cases in which there are allegations that a sexual assault occurred, a conviction of or prosecution for sexual assault occurred, a conviction of or prosecution for sexual assault has not occurred, and a child has been conceived as a result of the alleged sexual assault. It is the intent of the General Assembly that the Task Force make recommendations on future legislation to address these concerns.

The Task Force was assembled as outlined in SB 13-227 with appointed experts representing the following areas of interest:

- A representative of a statewide sexual assault coalition
- A representative of a statewide domestic violence coalition
- An expert in the federal “Indian Child Welfare Act”
- A representative of a statewide organization representing children’s advocacy centers
- A representative of a statewide disability rights organization
- A representative of a statewide organization that advocates on behalf of crime victims, the department of human services who is familiar with child welfare, adoption and child support enforcement
- A representative of the Office of the Child’s Representative appointed by Chief Justice of the Colorado Supreme Court
- A representative of the Judicial Branch appointed by the Chief Justice of the Colorado Supreme Court
- A representative of the Attorney General’s Office appointed by the State Attorney General
- A representative of County departments of social services who works in child protective services appointed by the Colorado Counties, Inc.
- A representative from the Family Law section of the Colorado Bar Association who is familiar with family law and adoption law appointed by the Colorado Bar Association

- A representative from the Juvenile Law section of the Colorado Bar Association appointed by the Colorado Bar Association
- A representative from the Criminal Law section of the Colorado Bar Association who is a criminal deference attorney appointed by the Colorado Bar Association
- A representative appointed by the Colorado District Attorneys' Council
- A representative of a County Department of Human Services
- A mother of a child conceived by rape, victim of sexual assault

The Colorado Department of Human Services was appropriated funds to contract an outside firm to facilitate Task Force discussions and assemble the final report of recommendations. That contractor, Rebound Solutions, was selected and engaged from the first meeting through the completion of this report.

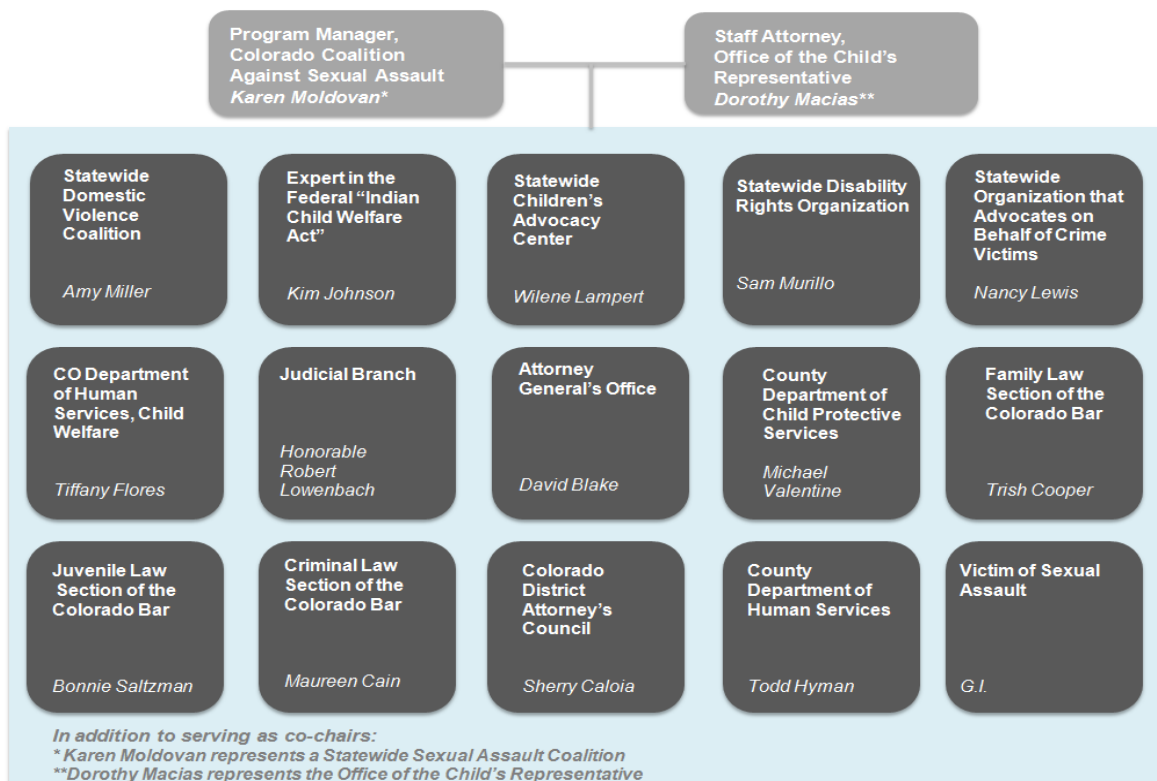
The Task Force met in subcommittees and as a full Task Force, frequently, from July 18 – November 18, 2013 with regular electronic (email) contact and recommendation review until November 26, 2013.

Task Force Structure, Guidelines, Issues, and Working Methods

SB 13-227 required the Task Force to meet 4 times beginning no later than July 20 and ending no later than the due date of the final report, December 1, 2013. The Task Force met 7 times from July 18 – November 18, 2013 with electronic communication and recommendation review occurring through November 24, 2013.

As noted above, a Task Force of hard working experts comprised the Task Force. These Task Force members committed many hours of service to this effort and are noted below with appreciation.

Figure 1: Task Force Membership Categories and Members



The Task Force was further divided into working groups, or subcommittees. The Task Force identified the names of the subcommittees and the perspectives those subcommittees would represent, then self selected into three subcommittees.

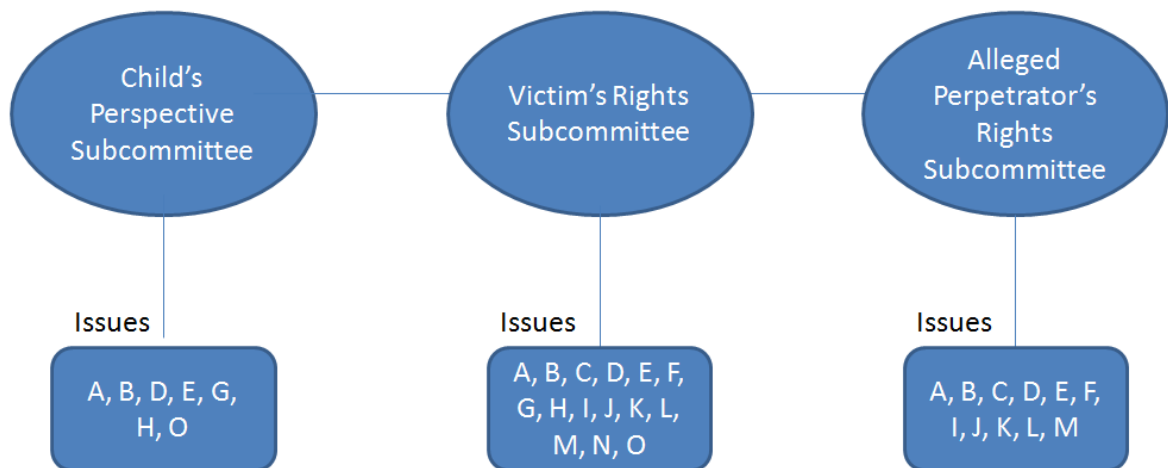
Three subcommittees of the SB 13-227 Task Force were formed to draft recommendations from the following perspectives:

SB 13-227 Subcommittees Groups

1. Child’s Perspective
2. Victim’s Rights
3. Alleged Perpetrator’s Rights

Each subcommittee was chaired by one member of the Task Force and consisted solely of Task Force members. Figure 2 lists the subcommittee and the initial set of issues requested by each to address. Issues were self selected by the subcommittees based on the areas in which the subcommittee had the strongest areas of expertise. Appendix D contains a list of the full membership of the subcommittees.

Figure 2: Amendment 64 Working Groups and Issues



This initial set of issues were further developed and refined by the subcommittees in the course of their work.

The subcommittees met separately from the Task Force to study these issues and develop recommendations from their subcommittee's perspective. Upon reaching consensus or majority opinion, the subcommittees forwarded their recommendations to the Task Force for further discussion and final approval. Given the intent of the Task Force to issue consensus recommendations whenever possible, several recommendations were sent back to the subcommittees for further refinement. All subcommittee recommendations were discussed and voted upon either in person or via email by the Task Force. Full documentation of the work of the Working Groups can be found on the website of the SB 13-227 Task Force through the Colorado Department of Human Services. The URL for this website is <http://www.colorado.gov/cs/Satellite/CDHS-ChildYouthFam/CBON/1251644396562>.

Senate Bill 13-227 Task Force Recommendations

- (a) Whether a process for addressing the parental rights of both parents in cases involving convictions for sexual assault and in cases involving allegations of sexual assault where there were no convictions is more appropriately addressed by district courts pursuant to article 10 of title 14, C.R.S., or by juvenile courts pursuant to article 5 of title 19, C.R.S. The Task Force must conduct an analysis that includes, but is not limited to, the advantages and disadvantages of each approach, whether there is a potential for unintended consequences from either approach, the fiscal impact to the state, county departments of social services, and the judicial branch to staff the different approaches, and the impact of each approach on the parties, the state, the county departments of social services, and the judicial branch.

CONVICTION

The Task Force recommends the following:

If there is a conviction, the Petition for Termination of Parental Rights should be filed in Juvenile Court per Title 19.

The Task Force conducted an analysis of advantages, disadvantages, unintended consequences, fiscal impact and impact for each approach. Findings of this analysis are reflected in the table below.

	Title 14	Title 19
Advantages	<ul style="list-style-type: none"> The Task Force cannot identify any advantages of placing termination in Title 14. 	<ul style="list-style-type: none"> The Juvenile judicial officers are more familiar with termination law. 19-5-105, C.R.S. provides for private petitions seeking termination of parental rights be filed in Juvenile Court. Termination of parental rights actions are currently only handled by the Juvenile Court. Juvenile Court can also be the forum for determining allocation of parental responsibilities if termination is denied if given appropriate

		<p>statutory authority.</p>
<p>Disadvantages</p>	<ul style="list-style-type: none"> • 14-1-101, C.R.S. requires adoption petitions to be filed in Juvenile Court. • Placing termination proceedings in Title 14 would mean that the District Court would handle the proceedings as opposed to the Juvenile Court. Because parental rights cannot currently be terminated under Title 14, this would require a significant amount of additional work that is unnecessary. • 14-10.5-102, C.R.S. legislative declaration regarding Title 14 goals: <ul style="list-style-type: none"> ○ (1) The general assembly hereby finds and declares that in most situations it is important to the healthy development of children that the children spend quality time with both parents. The general assembly further finds that due to dissolution of marriage, legal separation, and out-of-wedlock births, families are often divided and as a result, many children do not have the opportunity to spend the time with both parents that a court may have determined is in their best interests. ○ (3) It is the purpose of this article to enhance children's opportunities for access to their parent with whom the 	<p>Would need to give Juvenile Courts the authority to address both termination and allocation of parental responsibilities in 19-5. Currently only 19-3 and 19-4 provide for the determination of APR.</p>

<p>Disadvantages (cont'd)</p>	<p>child does not reside the majority of the time pursuant to court order in compliance with any orders entered in that regard. To that end, the general assembly hereby determines that it is appropriate for the state to seek the federal grant described in section 391 of the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Public Law 104-193, in order to explore alternative methods by which to support and facilitate a child's access to and time with his or her parent with whom the child does not reside the majority of the time in contested parenting time proceedings.</p> <ul style="list-style-type: none"> • Because the legislative declaration (above) states a goal for children is to "spend quality time with both parents" this statute is not the appropriate placement for termination decisions for these unique cases. 	
<p>Unintended Consequences</p>	<ul style="list-style-type: none"> • May be used as another factor for those who are inclined to manipulate the system in high conflict divorce. • Convictions that get overturned could be devastating to the child, victim and adoptive parent(s) because the termination could be vacated. • Defendant may not plead guilty if he/she is aware of the risk of loss of parental rights. 	
<p>Fiscal Impact</p>		<ul style="list-style-type: none"> • It is anticipated that too few termination cases involving children conceived in sexual

<p>Fiscal Impact (cont'd)</p>		<p>assault will be filed in Juvenile Court to have a fiscal impact on the State.</p> <ul style="list-style-type: none"> • Private termination proceeding will involve county departments of social/human services only if the Court is concerned the Petitioner is abusing/neglecting the child requiring a referral. • It is anticipated that there will be minimal fiscal impact related to GAL appointments, court time, and state appointed counsel.
<p>Impact on:</p> <ul style="list-style-type: none"> • Parties • State, county departments on social services • Judicial branch 	<ul style="list-style-type: none"> • Currently, terminations are handled in Juvenile Court. The District Courts, given staffing based on existing domestic relations cases, may not currently be staffed to handle an entirely new category of legal matters (termination). 	<ul style="list-style-type: none"> • There will not be any impact on county departments of human services, as this would be a private action.

The Task Force additionally recommends the following related to this issue:

Parents should be permitted to either admit parentage or request genetic testing to confirm parentage. Cost of testing should be borne by the “losing party” similar to the manner in which the cost of testing is handled under the Paternity statute.

Notice provisions should be added to the statute so that notice is provided to the alleged perpetrator per CRCP Rule 4 and consistent with statutory provisions of notice in 19-3-503, C.R.S.

The Court should consider all information that affects the best interests of the child.

The child's right to have medical and family information about the perpetrator should be respected and the perpetrator should be required to provide it, with the child having an unfettered right to access the information. A process must be in place to determine when this information is collected, who can access it, when it can be accessed, and how it is stored. Failure to comply with the request for information could result in contempt. Specific enforcement will be individually determined as appropriate to the case.

Court may appoint a Guardian ad Litem (GAL) to represent the child's best interests. Office of the Child Representative can pay under 19-3 and 19-5 but parents may be asked to reimburse under current statute.

The Court needs to articulate specific bases that support its finding that termination is or is not in the best interests of the child.

Minority Opinion (2) – This is not required in any other provision of Title 19 so should not be included here.

The Courts shall not presume that termination is contrary to the child's best interests merely because a step-parent or second parent adoption is not immediately contemplated.

Juvenile court should be the forum, in the same proceeding, for determining APR if termination is denied.

The Court is required to order that child support payments be made through the Family Support Registry under SB13-227. Any child support ordered under this statute should also be deemed a non-disclosure of information (NDI) case.

In cases involving convictions, the statutory language should stay as is regarding the rebuttable presumption that termination is in the best interests of the child [19-5-105.5 (7)(c), C.R.S.]

Minority Opinion (3)-

- 1) *Creating a private right of action for termination is a significant step and creating the presumption is not appropriate or necessary. We do not create presumptions for termination in other equally and perhaps more serious circumstances - e.g. father sexually assaults the child - so presumption is not appropriate here. This is especially true with such a broad definition of sexual assault in SB 13-227 and including deferred judgments as convictions, which means the conviction will go away if the person completes treatment, but there is still a presumption of termination.*
- 2) *Family and Juvenile Law Section: Under the current statute, which provides a private right of action for termination of parental rights, if the court finds by clear and convincing evidence that 1) a parent was convicted of a sexual assault against the victim/petitioner, 2) a child was conceived as a result of*

the sexual assault, and 3) termination of the parental rights of the parent who committed the sexual assault is in the child's best interests, the court must terminate that parent's parental rights. 19-5-105.5(7), C.R.S., the statute further provides that "there is a rebuttable presumption that terminating the parental rights of the parent who [committed the sexual assault] is in the best interests of the child." 19-5-105.5(7)(c), C.R.S. The statute is silent as to how the presumption might be rebutted.

The statutory presumption that termination is in the child's best interests is unconstitutional and runs afoul of the fundamental constitutional right of parents as described in Troxel v. Granville, 530 U.S. 57 (2000). As espoused in Troxel, parents have a fundamental right to make decisions concerning the care, custody, and control of their children, and in that right is an inherent presumption that a fit parent will act in the best interests of his or her child. Id. Further, the statute is subject to the strict scrutiny test, because a fundamental right is implicated and the statute infringes on the parent-child relationship. In re the Interest of E.L.M.C., 100 P.3d 546, 552 (Colo. App. 2004). Such a statute passes constitutional muster only "if it is narrowly tailored to serve a compelling state interest." Id. (citing Moriarty v. Bradt, 827 A.2d 203 (N.J. 2003). The State does not have a compelling interest justifying the presumption, and the presumption is not narrowly tailored to serve any interest the State might assert in its defense. Children, victims, and adoptive parents are likely to be irreparably harmed when the presumption is struck down as unconstitutional and terminations that occurred under the statute are vacated.

The stay currently set forth in 14-10-124.3, C.R.S. and in 19-4-105.7, C.R.S. should be repealed.

Rationale:

This process should not be cost-prohibitive for the victim. The legislature should ensure the court has discretion to find good cause to waive the costs for the victim and/or order the perpetrator to pay for the testing.

The Task Force discussed whether deferred judgments should count as a conviction for termination proceedings under 19-5-105.5, C.R.S. but decided that the child could be in limbo for years if a change to the statutory definition of conviction was made.

Additional Considerations:

Questions were raised about the constitutionality of the presumption that termination is in the child's best interests. If the presumption is to remain in law, any potential later legal challenge to the constitutionality of the presumption would benefit from additional legislative findings, establishing and justifying the policy. Once legislative findings are made, there

should be a legislative declaration in the bill brought forth by the legislature from these recommendations.

Each case/family is unique, thus legal remedies that are responsive to all types of circumstances under which a child was conceived as a result of sexual assault are needed.

If conviction is overturned on appeal, termination could also be overturned and the matter could then proceed as a petition for termination based upon an allegation.

ALLEGATIONS

The Task Force recommends the following:

The Petitioner can Petition in Juvenile Court for termination of parental rights and termination should occur if:

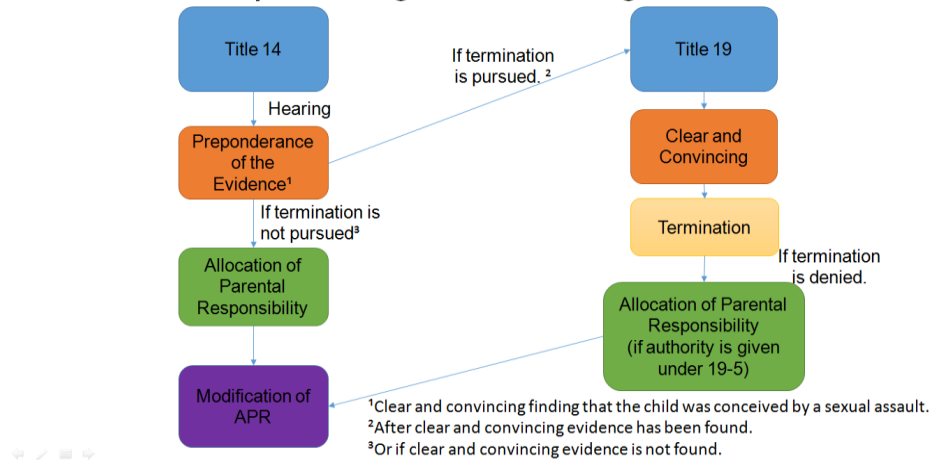
- Petitioner proves by clear & convincing evidence that sex assault occurred,
- Petitioner proves by clear & convincing evidence that the child born was conceived as a result of the sex assault, and
- Petitioner proves by clear and convincing evidence that termination is in the child's best interests

If these are proven, the analysis mirrors the table referencing petitions for termination based upon a conviction as detailed on pages 14-17 of this report.

Title 19 is the Title under which all termination hearings (based upon conviction or allegation) would occur.

Minority Opinion (2) - If termination is sought under an "allegation of sexual assault" scenario as opposed to already having a "conviction of sexual assault in criminal court" scenario, the party must first prove the "sexual assault" by clear and convincing evidence of the above in the Title 14 custody court. Then, the party can go to Title 19 to proceed with the termination findings and orders under the same process that would be brought under a criminal conviction of the sexual assault scenario. If termination is not sought or clear and convincing evidence of the sexual assault is not found, APR can be done in that same Title 14 court. If termination is denied and APR is now at issue, APR could proceed under either Title 19 (if legal authority is statutorily authorized) or sent back to the Title 14 court that heard the evidence of the sexual assault, at the discretion of the Title 19 court. (Title 19-5- court currently does not have the legal authority to decide and order APR) If termination is never sought and a party seeks APR only, he or she will file under existing law; no legislative change necessary. An illustration of this minority opinion is included below.

Roadmap for Allegations Starting Under Title 14



The Task Force additionally recommends the following related to this issue:

In 19-5-105 3.1, C.R.S. – consideration that child was conceived as a result of sexual assault should be added to the list of private actions for termination.

The heading of Part One of Title 19-5 (19-5-101, C.R.S. *et seq.*) should be amended to “Relinquishment and Termination of Parent-Child Relationship” to make it clear that the provisions of 19-5-105, C.R.S. apply even if there is no proposed relinquishment.

All termination proceedings, brought pursuant to a conviction or based upon an allegation, should occur in Title 19.

The rebuttable presumption that termination is in the child’s best interests should not apply when the petition is based upon an allegation and no conviction has occurred.

Minority Opinion (2) – The rebuttable presumption should apply when there is an allegation.

The Courts shall not presume that termination is contrary to the child’s best interests merely because a step-parent or second parent adoption is not immediately contemplated.

The Court is required to order that child support payments be made through the Family Support Registry under SB13-227. Any child support ordered under this statute should also be deemed a non-disclosure of information (NDI) case.

Additional Considerations:

In APR matters where the court finds that a child was conceived as a result of sexual assault, the courts should be empowered to order a sex offender evaluation.

Where there is a termination petition based upon a conviction, there is a rebuttable presumption that termination is in the child's best interests, where there is a petition based upon allegation with no conviction, the Task Force has recommended that there not be a presumption. Therefore, the analysis the court employs in determining whether to grant or deny the termination petition is similar but not identical.

- (b) What mechanisms and due process protections can be established for the court to limit or terminate parental rights, make decisions about allocation of rights and responsibilities of the parents, and issue protective no-contact orders;

The Task Force recommends the following:

Due Process

The process for notice should follow CRCP Rule 4, and the Court should not have discretion to waive the notice requirement, with statutory provisions of notice consistent with 19-3-503, C.R.S.

Due process requirements in parental rights terminations (notice/right to be heard), and actions to determine decision-making authority and parenting time in cases involving allocation of parental responsibilities already exist in law. The new termination statute should afford the same due process rights.

For termination actions under Title 19, both parents should have a right to counsel. There was disagreement amongst the Task Force as to whether the victim, if he/she can't afford counsel based on guidelines for indigence, should have counsel provided to him/her. This would be a change to existing law.

The petitioner can request protective measures in the courtroom in order to protect the child and make the victim feel safer, so long as these measures do not violate due process.

The deadline for court to hear petitions to terminate should be no more than 120 days from service of the petition or from first appearance date, whichever is later, unless parties consent or court finds good cause to extend beyond 120 days.

The stay currently set forth in 14-10-124.3, C.R.S. and in 19-4-105.7, C.R.S. should be repealed.

Mechanisms

The Court is required to order that child support payments be made through the Child Support Registry under SB13-227. Any child support ordered under this statute should be deemed a non-disclosure of information (NDI) case.

There should be mechanisms to protect confidentiality of the victim and child, including prevention of disclosure of the child's name (use initials only as in appeals).

Minority Opinion (1) - Family Law Section: Maintaining confidentiality and preventing disclosure of the identity of the parties and children in these cases from the public is appropriate. It is unconstitutional and violates a parent's right to due process to prevent disclosure of the child's name/identity from his/her own parent.

Filing fees should be waived for indigent victims.

Rationale:

The right to parent is a fundamental right that cannot be negatively affected without special considerations for the parent.

Sections 4 and 5 of SB13-227 act to keep all parties in limbo pending the often lengthy course of the criminal case. The timely resolution of issues for children regarding permanency and stability is essential to the acute and long-term health and stability of all children.

Without some protection for the alleged perpetrator, the Respondent will likely remain silent and not present a defense upon the advice of counsel.

Without some protection for the victim regarding the admissibility of statements and other evidence in criminal and other proceedings, pending or potential criminal actions may be compromised and a conviction may be more difficult or impossible to attain.

(c) What burden of proof should be used by the court in making the findings in paragraph (b) of this subsection (3);

The Task Force recommends the following:

The burden of proof in termination matters should remain clear and convincing evidence. For required ICWA findings, the burden of proof should remain beyond a reasonable doubt for termination.

The burden of proof in matters involving allocation of parental responsibilities should remain preponderance of the evidence.

Rationale:

The US Supreme Court established that the burden of proof in state actions for termination of parental rights is clear and convincing evidence. *Santosky v. Kramer*, 455 U.S. 745 (1982).

Actions under Title 14 are civil in nature and the burden of proof is preponderance.

See also ICWA section for specific rationale on burden of proof for ICWA findings.

(d) The unique considerations and challenges that are presented by cases involving domestic violence;

The Task Force recommends the following:

Creating legal remedies for these circumstances in domestic relations court that maintain the court's discretion will be helpful to address domestic violence cases that involve sexual assault. Provisions specific to sexual assault that result in conception of a child should be added under section 14-10-124, C.R.S. (best interests of the child).

Minority Opinion (2)- Family and Juvenile Law Section: 14-10-124, C.R.S. as written provides that in determining the best interests of the child for parenting time and decision-making, the court shall consider "all relevant factors." The Court is already empowered to consider that a child was conceived as a result of sexual assault in determining what is in the child's best interests for decision-making and parenting time. A modification of the statute is unnecessary.

Because the Task Force could not come to consensus about a solution for this issue, we recommend that the legislature address potential misuse of the court system in the modification process of APR by the parent found to have committed sexual assault that resulted in the conception of the child in question because of the issues of power and control inherent in domestic violence and sexual assault cases.

Minority Opinion (2) -

- 1) *The legislature wants this Task Force to make a recommendation on this issue to just refer it back does not address the request of the legislature.*
- 2) *Family Law Section: Attempted misuse of the court system in domestic relations is not entirely uncommon, and existing statutes and rules already afford the Court the ability to address abuses of the system and party misconduct on a case by case basis. Statutory revisions/additions are unnecessary to address this concern.*

- (e) The person who committed or is alleged to have committed the sexual assault is a woman and the woman becomes impregnated and conceives a child;

The Task Force recommends the following:

People need to be treated equally under the law.

The aforementioned process, referenced in 3a, is the same, regardless of the sex of the alleged perpetrator.

Minority Opinion (1) - This is too simplistic and not true. Does not address the question about what happens to the child after birth. If we say that people need to be treated equally, then the Respondents also need to be treated equally.

- (f) How parental rights should be determined and addressed through dependency or neglect proceedings in the juvenile justice system;

The Task Force recommends the following:

A dependency & neglect (D&N) proceeding would not be implicated if there are no allegations of abuse/neglect against the victim of the sexual assault. If the child is subject to abuse/neglect, then the current standards and procedures in dependency and neglect proceedings apply.

(g) How parental responsibilities should be allocated in domestic relations cases brought under article 10 of title 14, C.R.S.;

The Task Force recommends the following:

A provision should be added to statute 14-10-124, C.R.S. regarding shared decision-making in cases where a child was conceived as a result of a sexual assault.

Minority Opinion (1) – Family Law Section: 14-10-124, C.R.S. as written provides that in determining the best interests of the child for decision-making, the court shall consider “all relevant factors.” The Court is already empowered to consider that a child was conceived as a result of sexual assault in determining what is in the child’s best interests for decision-making and parenting time. Consideration of the child’s best interests is also paramount under the statute. A modification of the statute is unnecessary to ensure that the best interests of the child are protected.

Additionally, the Task Force was split between the two recommendations below:

- A) The victim has sole parental responsibilities unless the victim says otherwise or unless the court finds by preponderance of the evidence that shared decision making is in the best interests of the child. Creating legal remedies for these circumstances in domestic relations court that maintain the court’s discretion will be helpful to address domestic relations cases that involve sexual assault. Provisions specific to sexual assault that result in conception of a child should be added under section 14-10-124, C.R.S. (best interests of the child).
- B) Creating a presumption that it is not in the best interests of a child to allocate sole or split decision-making to the party found to have committed sexual assault that resulted in the child in question or to allocate mutual decision-making with respect to any issue over the objection of the other party or the legal representative of the child.

Rationale:

There should be a change to 14-10-124, C.R.S. regarding decision-making authority and it should track the Domestic Violence language because it is important for the statute to reflect the situation of children who are conceived as a result of sexual assault. There should be individualization for each situation and this gives the courts discretion.

With this language the statute will properly reflect that the victim’s objection to shared decision making should be honored by the court unless, in limited circumstances, there is credible evidence that the best interests of the child overcomes the presumption.

Minority Opinion (1) – This could open loopholes in the process.

(h) How to address the visitation rights of grandparents of the child in these circumstances;

The Task Force recommends the following:

Grandparents' visiting rights automatically terminate upon termination of the parent-child relationship.

If parental rights are not terminated, under the Children's Code, grandparents may request visitation.

Rationale:

Legal precedent informs these recommendations. See *People in the Interest of J.W.W.*, 936 P.2d 599, 601 (Colo.App. 1997).

Grandparents' right to visitation succumbs to the decision of the fit parent under current law *Troxel v. Granville* 530 U.S. 57 (2000).

The Court considers the best interests of the child (factors to be delineated, but include 14-10-124, C.R.S. , the child's right to have contact with extended family, child's right to have medical and family information from the perpetrator, and best interests of the community).

- (i) How the rights of parents and children are affected by the federal "Indian Child Welfare Act", 25 U.S.C., chapter 21;

The Task Force recommends the following:

Existing language under section 19-1-126, C.R.S. adequately covers ICWA requirements for Task Force recommendations on termination of parental rights.

- (j) The necessity of obtaining consent from both biological parents to the adoption of the child and how to obtain that consent;

The Task Force recommends the following:

This process already exists in statute and in rules of procedure.

Add to statute a provision allowing a procedure to determine whether termination should occur where the child was conceived as a result of sexual assault where there is no conviction.

Refer to the due process section of this document for notice provisions.

Rationale:

The perpetrator parent's consent to the adoption of the child is not necessary if they voluntarily relinquish their parental rights or upon a court ordered termination of parental rights. Both voluntary relinquishment and termination of parental rights procedures uphold notice and consent requirements under current law.

The court is not able to relinquish victim's parental rights without also terminating offender's rights.

(k) Whether and how to allow a birth parent to relinquish the child through an expedited relinquishment procedure for a child under one year of age and seek the termination of the parent-child legal relationship of the other parent who is alleged to be the perpetrator of sexual assault so that the child may legally be available for adoption;

19-5-103.5, C.R.S. establishes an expedited relinquishment procedure.

1. Child is less than 1 year of age
2. Relinquishing parent is assisted by licensed child placement agency or county dept of social services
3. Requirements of 19-5-103(1), C.R.S. have been met (counseling for parents & child, affidavit of counseling, relinquishment petition filed, statement re payments, gifts, etc. offered to the relinquishing parents).

The Task Force recommends the following:

In situations where there is clear and convincing evidence that the child was conceived by rape, some requirements of 19-5-103(1), C.R.S. may be waived. *People in the Interest of J.W.W.*, 936 P.2d 599, 601 (Colo.App. 1997)

Minority Opinion (1) – Counseling is still important, if not more important, in cases where a child was conceived by rape and should not be waived.

Expedited termination needs to still meet all due process criteria.

The Task Force agreed to a 120 day time period between service of process and termination hearing.

Minority Opinion (3) -

- 1) ***There are concerns about the 120 day deadline from the first court appearance for the court to hear the petition. Termination is a significant action and notice through publication may not offer adequate due process protections.***
- 2) ***Juvenile Law Section: The Court should have the discretion to extend the 120 days for good cause. The Court has discretion to extend deadlines in other areas of Title 19, why not this area too?***

Rationale:

The time frame is triggered upon proof by clear and convincing evidence that the child was conceived by rape.

- (l) With respect to the alleged perpetrator's parental rights, the advantages and disadvantages of and comparisons of:
- i. Not allocating parental responsibilities, including parenting time and decision-making responsibilities, to a parent alleged or found to be a perpetrator; or

The Task Force recommends the following:

No changes are needed. Victims already have rights under Title 14 (APR) and Title 19 (SB 13-227) to pursue termination of parental rights or allocation of / limitations to parental rights and responsibilities.

Rationale:

The option of termination of parental rights or allocation of/limitation to parental rights benefits the child, victim, and alleged perpetrator as it allows for an individual determination rather than a requirement of termination. Recommendations made to address (a) create the proper balance between the interests of all parties and recognizes the appropriate burdens of proof.

Policy concerns regarding domestic violence are applicable to situations where sexual assault has been alleged.

- ii. Not allocating parental responsibilities, including parenting time and decision-making responsibilities, to a parent alleged or found to be a perpetrator, and leaving the parent's obligation to provide child support for the child intact; or

The Task Force recommends the following:

A perpetrator's parental obligations to provide child support can be left intact when parental responsibilities are not allocated to him/her because child support is not currently dependent upon the allocation of parenting time or decision-making pursuant to section 14-10-115, C.R.S., however the Task Force found inconsistencies in statute and recommends the legislature address these inconsistencies.

14-10-124(1.5), C.R.S. allows allocation of parenting time/ responsibilities based on "best interests of the child giving paramount consideration to the child's safety and the physical, mental, and emotional conditions and needs of the child."

The decision as to whether to seek child support should be determined based on the best interests of the child and informed by the wishes of the victim.

- iii. Terminating all parental rights and responsibilities of a parent alleged or found to be a perpetrator, including not allocating parental responsibilities regarding parenting time and decision-making responsibilities, and terminating all obligations to provide child support for the child;

The Task Force recommends the following:

Terminating child support under such circumstances should only be done if found to be in the best interests of the child.

Minority Opinion (1) - Juvenile Law Section: Current law precludes child support to continue after termination. Sec. 19-1-102(107) C.R.S. defines "Termination of parent-child legal relationship" as "the permanent elimination by court order of all parental rights and duties, including residual parental rights and responsibilities , as provided in section 19-3-608, C.R.S. Sec. 19-3-608, C.R.S. states that "An order for the termination of the parent-child relationship divests the child and the parent of all legal rights, powers, privileges, immunities, duties and obligations with respect to each other". The only exception to this is that the child remains an heir at law until there is a final decree of adoption.

- (m) The feasibility of allowing the victim to exercise parental choice about whether the obligations for child support of the other parent are left intact or are eliminated, including balancing the rights of the child to be financially supported with the victim's choice to waive child support, and including an examination of whether such a choice can be waived in circumstances in which the child would qualify for public assistance benefits;

The Task Force recommends the following:

Current law provides that the county may seek reimbursement of any public assistance; however, a “good cause” failure to obtain child support does not currently diminish the award of public assistance.

Rationale:

In these situations the best interests of the child and the safety of the victim are in line with the vision of a “good cause” failure.

It is consistent with current practice to allow victim input into this process.

(n) The resources and training needed to train domestic relations staff in the judicial branch who work with the parties and the costs associated with providing resources and training;

The Task Force recommends the following:

The judicial branch indicated a fiscal impact for court workload and court-appointed counsel. Training will be needed.

The judicial department is the entity to provide appropriate training to judges.

OCR will need to train their attorneys and any other attorneys appointed by the court to represent any party should be provided training as well.

Judicial officers in all jurisdictions, excluding Denver, handle both Title 14 and Title 19 cases now.

Rationale:

None of the recommendations above will represent a substantial fiscal burden.

- (o) The impact of the process created in section 19-5-105.5, C.R.S., upon the child welfare system, including the impact on the collection of fees for children placed in foster care, and upon the collection and enforcement of child support obligations

The Task Force recommends the following:

If the county opts to remove a child from the victim or alleged victim place the child in foster care, current laws provide for reimbursement of costs based on the parent's ability to pay. Those laws are not altered by this statute nor would the Task Force seek any such alteration.

There may be an increased cost to Office of Child Representative for GALs appointed when parent(s) are deemed indigent in the termination cases. The exact amount is unknown.

There may also be increased cost to Child Support Enforcement. The exact amount is unknown.

Rationale:

14-7-101, C.R.S. states that the commitment of child to any state institution does not relieve the parent/guardian from responsibility for the support of the child.

14-7-102, C.R.S. states that the state or county is entitled to recover from the parent, legal guardian, or other person responsible for the support of such child. (see also, *MS v People*, 812 P.2d 632 (Colo. 1991) which holds that it is legislative policy that the parents shoulder the entire financial burden of the child's placement).

19-1-115(4)(d), C.R.S. -- states that that the state or county may recover costs of placement & GAL based on ability to pay,

26-5-102, C.R.S. -- states that fees may be assessed to pay for all or a portion of services. Fees are based on child support

Appendix A – Senate Bill 13-227

SENATE BILL 13-227

BY SENATOR(S) Carroll and Hudak, Aguilar, Cadman, Giron, Guzman, Harvey, Heath, Jahn, Jones, Kerr, King, Morse, Newell, Nicholson, Roberts, Schwartz, Todd, Ulibarri, Baumgardner, Brophy, Crowder, Grantham, Hodge, Kefalas, Lambert, Lundberg, Marble, Renfroe, Scheffel, Tochtrop;
also REPRESENTATIVE(S) Landgraf, Buck, Gardner, Humphrey, Lebsock, Melton, Mitsch Bush, Navarro, Priola, Rankin, Saine, Schafer, Stephens, Vigil, Wilson, Young, Dore, Duran, Fields, Foote, Gerou, Hamner, Kagan, Kraft-Tharp, Labuda, Lee, May, Peniston, Rosenthal, Ryden, Salazar, Szabo, Waller, Wright.

CONCERNING METHODS TO PROTECT THE VICTIM OF A SEXUAL ASSAULT IN CASES WHERE A CHILD WAS CONCEIVED AS A RESULT OF THE SEXUAL ASSAULT, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 19-1-103, **amend** (112); and **add** (29.3) and (96.5) as follows:

19-1-103. Definitions. As used in this title or in the specified portion of this title, unless the context otherwise requires:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act

(29.3) "CONVICTED" OR "CONVICTION", AS USED IN SECTION 19-5-105.5, MEANS A PLEA OF GUILTY ACCEPTED BY THE COURT, INCLUDING A PLEA OF GUILTY ENTERED PURSUANT TO A DEFERRED SENTENCE UNDER SECTION 18-1.3-102, C.R.S., A VERDICT OF GUILTY BY A JUDGE OR JURY, OR A PLEA OF NO CONTEST ACCEPTED BY THE COURT, OR HAVING RECEIVED A DISPOSITION AS A JUVENILE OR HAVING BEEN ADJUDICATED A JUVENILE DELINQUENT BASED ON THE COMMISSION OF ANY ACT THAT CONSTITUTES SEXUAL ASSAULT, AS DEFINED IN SUBSECTION (96.5) OF THIS SECTION.

(96.5) "SEXUAL ASSAULT", AS USED IN SECTION 19-5-105.5, MEANS:

(a) "SEXUAL ASSAULT" AS DEFINED IN SECTION 18-3-402, C.R.S.;

(b) "UNLAWFUL SEXUAL CONTACT" AS DEFINED IN SECTION 18-3-404, C.R.S.;

(c) "SEXUAL ASSAULT ON A CHILD BY ONE IN A POSITION OF TRUST" AS DEFINED IN SECTION 18-3-405.3, C.R.S.;

(d) "SEXUAL ASSAULT ON A CHILD, AS DEFINED IN SECTION 18-3-405, C.R.S.; OR

(e) "SEXUAL ASSAULT ON A CLIENT BY A PSYCHOTHERAPIST" AS DEFINED IN SECTION 18-3-405.5 C.R.S.

(112) (a) "Victim", as used in article 2 of this title, means the party immediately and directly aggrieved by the juvenile, that party's spouse, the party's parent, sibling, or child who is living with the party, a victim compensation board that has paid a victim compensation claim, a person or entity who has suffered losses because of a contractual relationship with such party, including, but not limited to, an insurer, or because of liability under section 14-6-110, C.R.S., or, in the absence of any of the above, the state.

(b) "VICTIM", AS USED IN SECTION 19-5-105.5, MEANS ANY NATURAL PERSON AGAINST WHOM A CRIME OF SEXUAL ASSAULT OR A CRIME IN WHICH THE UNDERLYING FACTUAL BASIS WAS SEXUAL ASSAULT HAS BEEN PERPETRATED OR IS ALLEGED TO HAVE BEEN PERPETRATED.

SECTION 2. In Colorado Revised Statutes, 19-5-101, **amend** (1) (b) and (1) (c); and **add** (1) (d) as follows:

19-5-101. Termination of the parent-child legal relationship.

(1) The juvenile court may, upon petition, terminate the parent-child legal relationship between a parent or parents, or a possible parent or parents, and a child in:

(b) Proceedings under section 19-5-105; or

(c) Proceedings under section 19-5-203 (1) (d), (1) (e), (1) (f), (1) (j), and (1) (k); OR

(d) PROCEEDINGS UNDER SECTION 19-5-105.5.

SECTION 3. In Colorado Revised Statutes, **add** 19-5-105.5 as follows:

19-5-105.5. Termination of parent-child legal relationship upon a finding that the child was conceived as a result of sexual assault - legislative declaration - definitions.

(1) THE GENERAL ASSEMBLY HEREBY DECLARES THAT THE PURPOSE OF THIS STATUTE IS TO PROTECT THE VICTIM OF A SEXUAL ASSAULT AND TO PROTECT THE CHILD CONCEIVED AS A RESULT OF THAT SEXUAL ASSAULT BY TERMINATING THE PARENTAL RIGHTS OF THE PERPETRATOR OF THE SEXUAL ASSAULT AND BY ISSUING PROTECTIVE ORDERS PREVENTING FUTURE CONTACT BETWEEN THE PARTIES. THE GENERAL ASSEMBLY FURTHER DECLARES THAT THIS SECTION CREATES CIVIL REMEDIES AND IS NOT CREATED TO PUNISH THE PERPETRATOR BUT RATHER TO PROTECT THE INTERESTS OF THE CHILD AND THE VICTIM OF A SEXUAL ASSAULT.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CONVICTED" OR "CONVICTION" HAS THE SAME MEANING AS DEFINED IN SECTION 19-1-103 (29.3).

(b) "SEXUAL ASSAULT" HAS THE SAME MEANING AS DEFINED IN SECTION 19-1-103 (96.5).

(c) "VICTIM" HAS THE SAME MEANING AS DEFINED IN SECTION 19-1-103 (112) (b).

(3) IF A CHILD WAS CONCEIVED AS A RESULT OF AN ACT THAT LED TO THE PARENT'S CONVICTION FOR SEXUAL ASSAULT OR FOR A CONVICTION IN WHICH THE UNDERLYING FACTUAL BASIS WAS SEXUAL ASSAULT, THE VICTIM OF THE SEXUAL ASSAULT OR CRIME MAY FILE A PETITION IN THE JUVENILE COURT TO PREVENT FUTURE CONTACT WITH THE PARENT WHO COMMITTED THE SEXUAL ASSAULT AND TO TERMINATE THE PARENT-CHILD LEGAL RELATIONSHIP OF THE PARENT WHO COMMITTED THE SEXUAL ASSAULT OR CRIME.

(4) THE VERIFIED PETITION FILED UNDER THIS SECTION MUST ALLEGE THAT:

(a) THE OTHER PARENT WAS CONVICTED ON OR AFTER JULY 1, 2013, OF AN ACT OF SEXUAL ASSAULT AGAINST THE VICTIM OR CONVICTED OF A CRIME IN WHICH THE UNDERLYING FACTUAL BASIS WAS SEXUAL ASSAULT AGAINST THE VICTIM;

(b) A CHILD WAS CONCEIVED AS A RESULT OF THE ACT OF SEXUAL ASSAULT OR CRIME DESCRIBED UNDER PARAGRAPH (a) OF THIS SUBSECTION

(4); AND

(c) TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP OF THE OTHER PARENT WITH THE CHILD IS IN THE BEST INTERESTS OF THE CHILD.

(5) AFTER A PETITION HAS BEEN FILED PURSUANT TO THIS SECTION, THE COURT MAY APPOINT A GUARDIAN AD LITEM, WHO MUST BE AN ATTORNEY, TO REPRESENT THE CHILD'S BEST INTERESTS IN THE PROCEEDING. A PETITIONER HAS THE RIGHT TO BE REPRESENTED BY LEGAL COUNSEL IN PROCEEDINGS UNDER THIS SECTION AND HAS THE RIGHT TO SEEK THE APPOINTMENT OF LEGAL COUNSEL IF THE PETITIONER IS UNABLE FINANCIALLY TO SECURE LEGAL COUNSEL ON HIS OR HER OWN.

(6) IN ANY PROCEEDING HELD UNDER THIS SECTION, THE VICTIM IS NOT REQUIRED TO APPEAR IN THE PRESENCE OF THE OTHER PARENT, AND THE VICTIM'S AND THE CHILD'S WHEREABOUTS MUST BE KEPT CONFIDENTIAL.

(7) THE COURT SHALL TERMINATE THE PARENT-CHILD LEGAL RELATIONSHIP OF THE PERSON AGAINST WHOM THE PETITION IS FILED IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:

(a) THE PARENT WAS CONVICTED ON OR AFTER JULY 1, 2013, OF AN ACT OF SEXUAL ASSAULT AGAINST THE VICTIM OR WAS CONVICTED OF A CRIME IN WHICH THE UNDERLYING FACTUAL BASIS WAS SEXUAL ASSAULT AGAINST THE VICTIM;

(b) A CHILD WAS CONCEIVED AS A RESULT OF THAT ACT OF SEXUAL ASSAULT OR CRIME; AND

(c) TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP IS IN THE BEST INTERESTS OF THE CHILD. THERE IS A REBUTTABLE PRESUMPTION THAT TERMINATING THE PARENTAL RIGHTS OF THE PARENT WHO COMMITTED THE ACT OF SEXUAL ASSAULT OR CRIME IS IN THE BEST INTERESTS OF THE CHILD.

(8) (a) A PERSON WHOSE PARENTAL RIGHTS ARE TERMINATED IN ACCORDANCE WITH THIS SECTION HAS:

(I) NO RIGHT TO ALLOCATION OF PARENTAL RESPONSIBILITIES, INCLUDING PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES FOR THE CHILD;

(II) NO RIGHT OF INHERITANCE FROM THE CHILD; AND

(III) NO RIGHT TO NOTIFICATION OF, OR STANDING TO OBJECT TO, THE ADOPTION OF THE CHILD.

(b) TERMINATION OF PARENTAL RIGHTS UNDER SUBSECTION (7) OF THIS SECTION DOES NOT RELIEVE THE PERSON OF ANY OBLIGATION TO PAY CHILD SUPPORT OR BIRTH-RELATED COSTS UNLESS WAIVED BY THE VICTIM. IN CASES IN WHICH CHILD SUPPORT OBLIGATIONS ARE NOT WAIVED AND THE COURT ORDERS THE PERSON TO PAY CHILD SUPPORT, THE COURT SHALL ORDER THE PAYMENTS TO BE MADE THROUGH THE CHILD SUPPORT REGISTRY TO AVOID THE NEED FOR ANY CONTACT BETWEEN THE PARTIES. IF THE VICTIM'S PARENT- CHILD LEGAL RELATIONSHIP TO THE CHILD IS TERMINATED AFTER THE ENTRY OF A CHILD SUPPORT ORDER AGAINST THE PERSON WHO WAS CONVICTED, THE COURT SHALL MODIFY THE CHILD SUPPORT ORDER ACCORDINGLY.

(9) THE PERSON WHOSE PARENT-CHILD LEGAL RELATIONSHIP HAS BEEN TERMINATED IN ACCORDANCE WITH THIS SECTION HAS NO RIGHT TO MAKE MEDICAL TREATMENT DECISIONS OR ANY OTHER DECISIONS ON BEHALF OF THE CHILD.

(10) THE VICTIM IS ENTITLED, UPON REQUEST, TO A NO-CONTACT PROTECTION ORDER ISSUED AGAINST THE PERSON WHOSE PARENTAL RIGHTS ARE TERMINATED PROHIBITING THE PERSON FROM HAVING ANY CONTACT WITH EITHER THE VICTIM OR THE CHILD.

(11) TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP PURSUANT TO SUBSECTION (7) OF THIS SECTION IS AN INDEPENDENT BASIS FOR TERMINATION OF PARENTAL RIGHTS, AND THE COURT NEED NOT MAKE ANY OF THE CONSIDERATIONS OR FINDINGS DESCRIBED IN SECTIONS 19-5-105, 19-5-103.5, OR 19-3-604.

(12) NOTHING IN THIS SECTION PROHIBITS THE TERMINATION OF PARENTAL RIGHTS BY THE COURT USING THE CRITERIA DESCRIBED IN SECTION 19-5-105, 19-5-103.5, OR 19-3-604.

SECTION 4. In Colorado Revised Statutes, **add** 14-10-124.3 as follows:

14-10-124.3. Stay of proceedings - criminal charges of allegations of sexual assault. IF CRIMINAL CHARGES ALLEGING AN ACT OF SEXUAL ASSAULT, AS DEFINED IN SECTION 19-1-103 (96.5), C.R.S., ARE BROUGHT AGAINST THE PARENT OF A CHILD ALLEGING THAT A CHILD WAS CONCEIVED AS A RESULT OF THE ALLEGED SEXUAL ASSAULT COMMITTED BY THAT PARENT AGAINST THE PARENT WHO IS THE ALLEGED VICTIM OF THE SEXUAL ASSAULT, THE COURT SHALL ISSUE AN AUTOMATIC STAY OF ANY CIVIL DOMESTIC PROCEEDINGS UNDER THIS ARTICLE OR OF ANY PATERNITY

PROCEEDINGS UNDER THE "UNIFORM PARENTAGE ACT", ARTICLE 4 OF TITLE 19, C.R.S., INVOLVING BOTH THE CHILD AND THE PARENT WHO IS THE ALLEGED PERPETRATOR. THE STAY SHALL NOT BE LIFTED UNTIL THERE IS A FINAL DISPOSITION OF THE CRIMINAL CHARGES. IN ANY FUTURE DOMESTIC PROCEEDINGS UNDER THIS ARTICLE OR ANY PATERNITY PROCEEDINGS UNDER THE "UNIFORM PARENTAGE ACT", ARTICLE 4 OF TITLE 19, C.R.S., CONTINUED AFTER THE FINAL DISPOSITION OF THE CRIMINAL CHARGES, ANY DENIAL OF PARENTING TIME BY THE VICTIM OF THE ALLEGED SEXUAL ASSAULT WHILE THE CRIMINAL CHARGES WERE PENDING SHALL NOT BE USED IN ANY WAY AGAINST THE VICTIM.

SECTION 5. In Colorado Revised Statutes, **add** 19-4-105.7 as follows:

19-4-105.7. Stay of paternity proceedings - criminal charges of allegations of sexual assault. IF CRIMINAL CHARGES ALLEGING AN ACT OF SEXUAL ASSAULT, AS DEFINED IN SECTION 19-1-103 (96.5), C.R.S., ARE BROUGHT AGAINST A PRESUMED OR POSSIBLE PARENT WHO IS THE SUBJECT OF AN ACTION TO DETERMINE PATERNITY ALLEGING THAT A CHILD WAS CONCEIVED AS A RESULT OF THAT SEXUAL ASSAULT COMMITTED BY THAT PRESUMED OR POSSIBLE PARENT AGAINST THE PARENT WHO IS THE ALLEGED VICTIM OF THE SEXUAL ASSAULT, THE COURT SHALL ISSUE AN AUTOMATIC STAY OF ANY PATERNITY PROCEEDINGS UNDER THIS ARTICLE INVOLVING BOTH THE CHILD AND THE PRESUMED OR POSSIBLE PARENT WHO IS THE ALLEGED PERPETRATOR. THE STAY SHALL NOT BE LIFTED UNTIL THERE IS A FINAL DISPOSITION OF THE CRIMINAL CHARGES. IN ANY FUTURE PATERNITY PROCEEDINGS UNDER THIS ARTICLE THAT ARE CONTINUED AFTER THE FINAL DISPOSITION OF THE CRIMINAL CHARGES, ANY DENIAL OF PARENTING TIME BY THE VICTIM OF THE ALLEGED SEXUAL ASSAULT WHILE THE CRIMINAL CHARGES WERE PENDING SHALL NOT BE USED IN ANY WAY AGAINST THE VICTIM.

SECTION 6. In Colorado Revised Statutes, 18-3-402, **add** (7) as follows:

18-3-402. Sexual assault. (7) A PERSON WHO IS CONVICTED ON OR AFTER JULY 1, 2013, OF A SEXUAL ASSAULT UNDER THIS SECTION, UPON CONVICTION, SHALL BE ADVISED BY THE COURT THAT THE PERSON HAS NO RIGHT:

(a) TO NOTIFICATION OF THE TERMINATION OF PARENTAL RIGHTS AND NO STANDING TO OBJECT TO THE TERMINATION OF PARENTAL RIGHTS FOR A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;

(b) TO ALLOCATION OF PARENTAL RESPONSIBILITIES, INCLUDING

PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES FOR A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;

(c) OF INHERITANCE FROM A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE; AND

(d) TO NOTIFICATION OF OR THE RIGHT TO OBJECT TO THE ADOPTION OF A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE.

SECTION 7. In Colorado Revised Statutes, 18-3-404, **add** (4) as follows:

18-3-404. Unlawful sexual contact. (4) A PERSON WHO IS CONVICTED ON OR AFTER JULY 1, 2013, OF UNLAWFUL SEXUAL CONTACT UNDER THIS SECTION, UPON CONVICTION, SHALL BE ADVISED BY THE COURT THAT THE PERSON HAS NO RIGHT:

(a) TO NOTIFICATION OF THE TERMINATION OF PARENTAL RIGHTS AND NO STANDING TO OBJECT TO THE TERMINATION OF PARENTAL RIGHTS FOR A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;

(b) TO ALLOCATION OF PARENTAL RESPONSIBILITIES, INCLUDING PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES FOR A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;

(c) OF INHERITANCE FROM A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE; AND

(d) TO NOTIFICATION OF OR THE RIGHT TO OBJECT TO THE ADOPTION OF A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE.

SECTION 8. In Colorado Revised Statutes, 18-3-405.3, **add** (5) as follows:

18-3-405.3. Sexual assault on a child by one in a position of trust.

(5) A PERSON WHO IS CONVICTED ON OR AFTER JULY 1, 2013, OF SEXUAL ASSAULT ON A CHILD BY ONE IN A POSITION OF TRUST UNDER THIS SECTION, UPON CONVICTION, SHALL BE ADVISED BY THE COURT THAT THE PERSON HAS NO RIGHT:

(a) TO NOTIFICATION OF THE TERMINATION OF PARENTAL RIGHTS AND NO STANDING TO OBJECT TO THE TERMINATION OF PARENTAL RIGHTS FOR A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;

(b) TO ALLOCATION OF PARENTAL RESPONSIBILITIES, INCLUDING PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES FOR A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;

(c) OF INHERITANCE FROM A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE; AND

(d) TO NOTIFICATION OF OR THE RIGHT TO OBJECT TO THE ADOPTION OF A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE.

SECTION 9. In Colorado Revised Statutes, 18-3-405, **add** (4) as follows:

18-3-405. Sexual assault on a child. (4) A PERSON WHO IS CONVICTED ON OR AFTER JULY 1, 2013, OF SEXUAL ASSAULT ON A CHILD UNDER THIS SECTION, UPON CONVICTION, SHALL BE ADVISED BY THE COURT THAT THE PERSON HAS NO RIGHT:

(a) TO NOTIFICATION OF THE TERMINATION OF PARENTAL RIGHTS AND NO STANDING TO OBJECT TO THE TERMINATION OF PARENTAL RIGHTS FOR A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;

(b) TO ALLOCATION OF PARENTAL RESPONSIBILITIES, INCLUDING PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES FOR A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;

(c) OF INHERITANCE FROM A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE; AND

(d) TO NOTIFICATION OF OR THE RIGHT TO OBJECT TO THE ADOPTION OF A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE.

SECTION 10. In Colorado Revised Statutes, 18-3-405.5, **add** (5) as follows:

18-3-405.5. Sexual assault on a client by a psychotherapist.

(5) A PERSON WHO IS CONVICTED ON OR AFTER JULY 1, 2013, OF SEXUAL

ASSAULT ON A CLIENT BY A PSYCHOTHERAPIST UNDER THIS SECTION, UPON CONVICTION, SHALL BE ADVISED BY THE COURT THAT THE PERSON HAS NO RIGHT:

- (a) TO NOTIFICATION OF THE TERMINATION OF PARENTAL RIGHTS AND NO STANDING TO OBJECT TO THE TERMINATION OF PARENTAL RIGHTS FOR A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;
- (b) TO ALLOCATION OF PARENTAL RESPONSIBILITIES, INCLUDING PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES FOR A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE;
- (c) OF INHERITANCE FROM A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE; AND
- (d) TO NOTIFICATION OF OR THE RIGHT TO OBJECT TO THE ADOPTION OF A CHILD CONCEIVED AS A RESULT OF THE COMMISSION OF THAT OFFENSE.

SECTION 11. In Colorado Revised Statutes, 14-14-104, **amend** (1) introductory portion as follows:

14-14-104. Recovery for child support debt. (1) Any payment of public assistance by a county department of social services made to or for the benefit of any dependent child or children creates a debt, which is due and owing to the county department of social services, recoverable by the county as a debt due to the state by the parent or parents who are responsible for support of the dependent child or children, OR BY THE PARENT WHOSE RIGHTS WERE TERMINATED PURSUANT TO SECTION 19-5-105.5, C.R.S., AND WHO WAS ORDERED TO PAY CHILD SUPPORT FOR THE BENEFIT OF A DEPENDENT CHILD, in an amount to be determined as follows:

SECTION 12. In Colorado Revised Statutes, **add** part 5 to article 1 of title 26 as follows:

PART 5

TASK FORCE ON CHILDREN CONCEIVED BY RAPE

26-1-501. Task force on children conceived by rape – legislative declaration - creation - duties - report - repeal of part. (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

(I) SECTION 19-5-105.5, C.R.S., ADDRESSES THE INTERESTS OF THE PARTIES AFFECTED AND CREATES A PROCESS TO TERMINATE THE PARENTAL RIGHTS OF A PERPETRATOR OF SEXUAL ASSAULT IN CIRCUMSTANCES IN

WHICH A PARENT WAS CONVICTED OF AN ACT OF SEXUAL ASSAULT AGAINST THE VICTIM OR CONVICTED OF A CRIME IN WHICH THE UNDERLYING FACTUAL BASIS WAS SEXUAL ASSAULT AGAINST THE VICTIM AND A CHILD WAS CONCEIVED AS A RESULT OF THAT SEXUAL ASSAULT OR CRIME;

(II) MANY SEXUAL ASSAULTS ARE NOT REPORTED OR PROSECUTED OR DO NOT RESULT IN A CONVICTION, AND IN SUCH CASES, THERE IS STILL A NEED TO PROTECT THE INTERESTS OF THE VICTIM FROM FUTURE CONTACT WITH THE ALLEGED PERPETRATOR WHILE BALANCING THE DUE PROCESS RIGHTS OF THE ALLEGED PERPETRATOR; AND

(III) THERE REMAIN UNRESOLVED AND DIFFICULT POLICY ISSUES RELATED TO THE PARENTAL RIGHTS OF THE PARTIES IN THE CIRCUMSTANCES DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) IN WHICH A CONVICTION OCCURRED AND ALSO IN THOSE CIRCUMSTANCES DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) IN WHICH A CONVICTION DID NOT OCCUR AND THAT DO NOT QUALIFY FOR THE PROCESS AFFORDED IN SECTION 19-5-105.5, C.R.S.

(b) THE GENERAL ASSEMBLY THEREFORE FINDS THAT IT WOULD BE BENEFICIAL TO CONVENE A TASK FORCE OF EXPERTS TO REVIEW AND EVALUATE THE PROCESS IN SECTION 19-5-105.5, C.R.S., AND TO STUDY THE ISSUES ASSOCIATED WITH PARENTAL RIGHTS IN CASES IN WHICH THERE ARE ALLEGATIONS THAT A SEXUAL ASSAULT OCCURRED, A CONVICTION OF OR PROSECUTION FOR SEXUAL ASSAULT HAS NOT OCCURRED, AND A CHILD HAS BEEN CONCEIVED AS A RESULT OF THE ALLEGED SEXUAL ASSAULT. IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE TASK FORCE MAKE RECOMMENDATIONS ON FUTURE LEGISLATION TO ADDRESS THESE CONCERNS.

(2) THERE IS HEREBY CREATED THE TASK FORCE ON CHILDREN CONCEIVED BY RAPE, REFERRED TO IN THIS SECTION AS THE "TASK FORCE", WHICH SHALL MEET DURING THE INTERIM AFTER THE FIRST REGULAR SESSION OF THE SIXTY-NINTH GENERAL ASSEMBLY.

(3) THE TASK FORCE SHALL STUDY AND MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY CONCERNING PROTECTIONS FOR RAPE VICTIMS AND CONCERNING PARENTAL RIGHTS OF THE PARTIES INVOLVED IN CASES INVOLVING CONVICTIONS AND IN CASES IN WHICH THERE ARE ALLEGATIONS THAT A SEXUAL ASSAULT OCCURRED, A CONVICTION OF OR PROSECUTION FOR SEXUAL ASSAULT HAS NOT OCCURRED, AND A CHILD HAS BEEN CONCEIVED AS A RESULT OF THE ALLEGED SEXUAL ASSAULT. THE TASK FORCE STUDY MUST INCLUDE BUT IS NOT LIMITED TO THE FOLLOWING ISSUES:

(a) WHETHER A PROCESS FOR ADDRESSING THE PARENTAL RIGHTS OF BOTH PARENTS IN CASES INVOLVING CONVICTIONS FOR SEXUAL ASSAULT

AND IN CASES INVOLVING ALLEGATIONS OF SEXUAL ASSAULT WHERE THERE WERE NO CONVICTIONS IS MORE APPROPRIATELY ADDRESSED BY DISTRICT COURTS PURSUANT TO ARTICLE 10 OF TITLE 14, C.R.S., OR BY JUVENILE COURTS PURSUANT TO ARTICLE 5 OF TITLE 19, C.R.S. THE TASK FORCE MUST CONDUCT AN ANALYSIS THAT INCLUDES, BUT IS NOT LIMITED TO, THE ADVANTAGES AND DISADVANTAGES OF EACH APPROACH, WHETHER THERE IS A POTENTIAL FOR UNINTENDED CONSEQUENCES FROM EITHER APPROACH, THE FISCAL IMPACT TO THE STATE, COUNTY DEPARTMENTS OF SOCIAL SERVICES, AND THE JUDICIAL BRANCH TO STAFF THE DIFFERENT APPROACHES, AND THE IMPACT OF EACH APPROACH ON THE PARTIES, THE STATE, THE COUNTY DEPARTMENTS OF SOCIAL SERVICES, AND THE JUDICIAL BRANCH.

(b) WHAT MECHANISMS AND DUE PROCESS PROTECTIONS CAN BE ESTABLISHED FOR THE COURT TO LIMIT OR TERMINATE PARENTAL RIGHTS, MAKE DECISIONS ABOUT ALLOCATION OF RIGHTS AND RESPONSIBILITIES OF THE PARENTS, AND ISSUE PROTECTIVE NO-CONTACT ORDERS;

(c) WHAT BURDEN OF PROOF SHOULD BE USED BY THE COURT IN MAKING THE FINDINGS IN PARAGRAPH (b) OF THIS SUBSECTION (3);

(d) THE UNIQUE CONSIDERATIONS AND CHALLENGES THAT ARE PRESENTED BY CASES INVOLVING DOMESTIC VIOLENCE;

(e) THE UNIQUE CONSIDERATIONS AND CHALLENGES THAT ARE PRESENTED BY CASES WHERE THE PERSON WHO COMMITTED OR IS ALLEGED TO HAVE COMMITTED THE SEXUAL ASSAULT IS A WOMAN AND THE WOMAN BECOMES IMPREGNATED AND CONCEIVES A CHILD;

(f) HOW PARENTAL RIGHTS SHOULD BE DETERMINED AND ADDRESSED THROUGH DEPENDENCY OR NEGLECT PROCEEDINGS IN THE JUVENILE JUSTICE SYSTEM;

(g) HOW PARENTAL RESPONSIBILITIES SHOULD BE ALLOCATED IN DOMESTIC RELATIONS CASES BROUGHT UNDER ARTICLE 10 OF TITLE 14, C.R.S.;

(h) HOW TO ADDRESS THE VISITATION RIGHTS OF GRANDPARENTS OF THE CHILD IN THESE CIRCUMSTANCES;

(i) HOW THE RIGHTS OF PARENTS AND CHILDREN ARE AFFECTED BY THE FEDERAL "INDIAN CHILD WELFARE ACT", 25 U.S.C., CHAPTER 21;

(j) THE NECESSITY OF OBTAINING CONSENT FROM BOTH BIOLOGICAL

PARENTS TO THE ADOPTION OF THE CHILD AND HOW TO OBTAIN THAT CONSENT;

(k) WHETHER AND HOW TO ALLOW A BIRTH PARENT TO RELINQUISH THE CHILD THROUGH AN EXPEDITED RELINQUISHMENT PROCEDURE FOR A CHILD UNDER ONE YEAR OF AGE AND SEEK THE TERMINATION OF THE PARENT-CHILD LEGAL RELATIONSHIP OF THE OTHER PARENT WHO IS ALLEGED TO BE THE PERPETRATOR OF SEXUAL ASSAULT SO THAT THE CHILD MAY LEGALLY BE AVAILABLE FOR ADOPTION;

(l) WITH RESPECT TO THE ALLEGED PERPETRATOR'S PARENTAL RIGHTS, THE ADVANTAGES AND DISADVANTAGES OF AND COMPARISONS OF:

(I) NOT ALLOCATING PARENTAL RESPONSIBILITIES, INCLUDING PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES, TO A PARENT ALLEGED OR FOUND TO BE A PERPETRATOR; OR

(II) NOT ALLOCATING PARENTAL RESPONSIBILITIES, INCLUDING PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES, TO A PARENT ALLEGED OR FOUND TO BE A PERPETRATOR, AND LEAVING THE PARENT'S OBLIGATION TO PROVIDE CHILD SUPPORT FOR THE CHILD INTACT; OR

(III) TERMINATING ALL PARENTAL RIGHTS AND RESPONSIBILITIES OF A PARENT ALLEGED OR FOUND TO BE A PERPETRATOR, INCLUDING NOT ALLOCATING PARENTAL RESPONSIBILITIES REGARDING PARENTING TIME AND DECISION-MAKING RESPONSIBILITIES, AND TERMINATING ALL OBLIGATIONS TO PROVIDE CHILD SUPPORT FOR THE CHILD;

(m) THE FEASIBILITY OF ALLOWING THE VICTIM TO EXERCISE PARENTAL CHOICE ABOUT WHETHER THE OBLIGATIONS FOR CHILD SUPPORT OF THE OTHER PARENT ARE LEFT INTACT OR ARE ELIMINATED, INCLUDING BALANCING THE RIGHTS OF THE CHILD TO BE FINANCIALLY SUPPORTED WITH THE VICTIM'S CHOICE TO WAIVE CHILD SUPPORT, AND INCLUDING AN EXAMINATION OF WHETHER SUCH A CHOICE CAN BE WAIVED IN CIRCUMSTANCES IN WHICH THE CHILD WOULD QUALIFY FOR PUBLIC ASSISTANCE BENEFITS;

(n) THE RESOURCES AND TRAINING NEEDED TO TRAIN DOMESTIC RELATIONS STAFF IN THE JUDICIAL BRANCH WHO WORK WITH THE PARTIES AND THE COSTS ASSOCIATED WITH PROVIDING RESOURCES AND TRAINING; AND

(o) THE IMPACT OF THE PROCESS CREATED IN SECTION 19-5-105.5, C.R.S., UPON THE CHILD WELFARE SYSTEM, INCLUDING THE IMPACT ON THE COLLECTION OF FEES FOR CHILDREN PLACED IN FOSTER CARE, AND UPON THE

COLLECTION AND ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS.

(4) THE TASK FORCE SHALL SUBMIT A WRITTEN REPORT OF ITS FINDINGS AND RECOMMENDATIONS TO THE SPONSORS AND CO-SPONSORS OF SENATE BILL 13-227, ENACTED IN 2013, AND TO THE JUDICIARY COMMITTEE OF THE SENATE AND TO THE JUDICIARY COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, ON OR BEFORE DECEMBER 1, 2013. UPON REQUEST OF A MEMBER OF THE TASK FORCE, SUMMARIES OF DISSENTING OPINIONS SHALL BE PREPARED AND ATTACHED TO THE FINAL REPORT OF FINDINGS AND RECOMMENDATIONS.

(5) THE TASK FORCE SHALL CONSIST OF THE FOLLOWING MEMBERS:

(a) SIX MEMBERS APPOINTED BY THE GOVERNOR AS FOLLOWS:

(I) A REPRESENTATIVE OF A STATEWIDE SEXUAL ASSAULT COALITION;

(II) A REPRESENTATIVE OF A STATEWIDE DOMESTIC VIOLENCE COALITION;

(III) AN EXPERT IN THE FEDERAL "INDIAN CHILD WELFARE ACT", 25 U.S.C., CHAPTER 21;

(IV) A REPRESENTATIVE FROM A CHILDREN'S ADVOCACY CENTER OR STATEWIDE ORGANIZATION REPRESENTING CHILDREN'S ADVOCACY CENTERS;

(V) A REPRESENTATIVE OF A STATEWIDE DISABILITY RIGHTS ORGANIZATION;

(VI) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION THAT ADVOCATES ON BEHALF OF CRIME VICTIMS;

(b) A REPRESENTATIVE OF THE DEPARTMENT OF HUMAN SERVICES WHO IS FAMILIAR WITH CHILD WELFARE, ADOPTION SERVICES, AND CHILD SUPPORT ENFORCEMENT APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES;

(c) A REPRESENTATIVE FROM THE OFFICE OF THE CHILD'S REPRESENTATIVE APPOINTED BY THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT;

(d) A REPRESENTATIVE FROM THE JUDICIAL BRANCH APPOINTED BY

THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT;

(e) A REPRESENTATIVE OF THE ATTORNEY GENERAL'S OFFICE APPOINTED BY THE STATE ATTORNEY GENERAL;

(f) A REPRESENTATIVE OF COUNTY DEPARTMENTS OF SOCIAL SERVICES WHO WORKS IN CHILD PROTECTIVE SERVICES APPOINTED BY COLORADO COUNTIES, INC.;

(g) AN ATTORNEY WHO REPRESENTS A COUNTY AND WHO IS APPOINTED BY THE ASSOCIATION THAT REPRESENTS COUNTY HUMAN SERVICES DIRECTORS IN COLORADO;

(h) A REPRESENTATIVE FROM THE FAMILY LAW SECTION OF THE COLORADO BAR ASSOCIATION WHO IS FAMILIAR WITH FAMILY LAW AND ADOPTION LAW APPOINTED BY THE COLORADO BAR ASSOCIATION;

(i) A REPRESENTATIVE FROM THE JUVENILE LAW SECTION OF THE COLORADO BAR ASSOCIATION APPOINTED BY THE COLORADO BAR ASSOCIATION;

(j) A REPRESENTATIVE FROM THE CRIMINAL LAW SECTION OF THE COLORADO BAR ASSOCIATION WHO IS A CRIMINAL DEFENSE ATTORNEY APPOINTED BY THE COLORADO BAR ASSOCIATION;

(k) A REPRESENTATIVE APPOINTED BY THE COLORADO DISTRICT ATTORNEYS' COUNCIL; AND

(l) A PERSON WHO IS A SURVIVOR OF A SEXUAL ASSAULT APPOINTED BY A STATEWIDE ORGANIZATION THAT ADVOCATES ON BEHALF OF SEXUAL ASSAULT VICTIMS.

(6) THE APPOINTING AUTHORITIES SHALL MAKE ALL APPOINTMENTS TO THE TASK FORCE ON OR BEFORE JUNE 15, 2013.

(7) (a) THE FIRST MEETING OF THE TASK FORCE SHALL OCCUR NO LATER THAN JULY 20, 2013. THE TASK FORCE SHALL MEET AT LEAST FOUR TIMES.

(b) THE TASK FORCE'S MEETINGS SHALL BE PUBLIC MEETINGS.

(c) THE MEMBERS OF THE TASK FORCE SHALL ELECT A CHAIR AND A VICE-CHAIR FROM ITS MEMBERSHIP.

(8) THE TASK FORCE SHALL SOLICIT AND ACCEPT REPORTS AND PUBLIC TESTIMONY AND MAY REQUEST OTHER SOURCES TO PROVIDE TESTIMONY, WRITTEN COMMENTS, AND OTHER RELEVANT DATA TO THE TASK FORCE.

(9) MEMBERS OF THE TASK FORCE SHALL SERVE WITHOUT COMPENSATION AND SHALL NOT BE ENTITLED TO REIMBURSEMENT FOR EXPENSES.

(10) THE LEGISLATIVE COUNCIL STAFF AND THE OFFICE OF LEGISLATIVE LEGAL SERVICES SHALL NOT PROVIDE STAFF SUPPORT TO THE TASK FORCE.

(11) THIS PART 5 IS REPEALED, EFFECTIVE JANUARY 1, 2014.

SECTION 13. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of human services, for the fiscal year beginning July 1, 2013, the sum of \$9,000, or so much thereof as may be necessary, for allocation to the division of child welfare, administration, for the provision of assistance to the task force on children conceived by rape that is created by this act.

SECTION 14. Effective date - applicability. (1) Except as otherwise provided in this section, this act takes effect upon passage. (2) Sections 1 through 10 of this act take effect July 1, 2013, and apply to convictions occurring on or after said date.

SECTION 15. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Appendix B – Person Centered Best Practice Paradigm

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.¹

Persons with disabilities are victimized by crime at much higher rates than the rest of the population, and they are often targeted specifically because of their disabilities. Violent crimes against these victims include rape/sexual assault, robbery, aggravated assault, and intimate partner violence. As compared to other population groups, victims with disabilities experience higher rates of victimization by persons known to them, and they report crime less frequently, often because of the nature of their disabilities, such as mental disabilities or physical or emotional illness.²

Assuring access to protections from this legislation for victims with disabilities requires specific recognition and accommodations are made:

1. Recognize that all persons are equal before and under the law and are entitled without any discrimination (as defined) to the equal protection and equal benefit of the law.¹ The disability of the victim shall not be cause for impeding the rights of the victim and the child born from the offense including but not limited to the speedy and fair determination of severing custodial rights of the perpetrator.
2. Prohibit all discrimination on the basis of the victim’s disability, and guarantee to all victims with disabilities and their children born from this offense equal and effective legal protection against discrimination on all grounds.¹
3. Promote equality and eliminate discrimination of victims with disabilities and their children born from the offense through taking all appropriate steps to ensure that reasonable accommodations (as defined) are provided. The provision of procedural accommodations facilitate victims with disabilities effective role as direct and indirect participants, including as witnesses, in all legal proceedings as well as investigative and other preliminary stages.¹
4. All victims with disabilities shall be presumed legally competent unless determined otherwise by a court of law. If question of capacity occurs then all measures that relate to the exercise of determining legal capacity of victims with disabilities assure

¹ Modified from the United Nations Convention on the Rights of Persons with Disabilities.

² National Center for Victims of Crime: Disabilities and Victimization

the provision of appropriate and effective safeguards to prevent abuse of power. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the victim, are free of conflict of interest and undue influence and is determined by a competent, independent and impartial authority or judicial body.¹

- "Discrimination on the basis of disability" means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation.¹
- "Reasonable accommodation" means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to victims with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.¹

Appendix C – Task Force Members and Contributors

Task Force Members

Name	Affiliation	Interests Represented
David Blake, Esq.	Attorney General's Office	Attorney General's Office
Maureen Cain, Esq.	Criminal Defense Attorney, Private Practice, Colorado Criminal Defense Board	Criminal Law
Sherry Caloia, Esq.	9 th Judicial District Attorney	Colorado District Attorney
Trish Cooper, Esq.	Family Law Attorney, Law Office of Stephen J. Harhai	Family Law
Tiffany Flores, MSW	Child Protection Services Manager, Office of Children, Youth and Families, Division of Child Welfare, Colorado Department of Human Services	State of Colorado Department of Human Services
Todd Hyman, MPA	Permanency Advisor, Arapahoe County Department of Human Services	County Department of Human Services
G.I.	Mother of a child conceived by rape, victim of sexual assault	Victims of Sexual Assault/ Parents of Children Conceived by Rape
Kim Johnson	Interim Child Welfare Supervisor, Denver Indian Family Resource Center	Federal "Indian Child Welfare Act"

Name	Affiliation	Interests Represented
Wilene Lampert	Executive Director, Safe Passage	Advocacy for Children
Nancy Lewis	Executive Director, Colorado Organization for Victim Assistance	Advocacy for Victims of Crime
Honorable Robert Lowenbach, Esq.	Judge, 19th Judicial District (Retired)	Judicial Branch
Dorothy Macias, JD	Staff Attorney, Office of the Child's Representative	Office of the Child's Representative
Amy Miller, MSW	Public Policy Director, Colorado Coalition Against Domestic Violence	Victims of Domestic Violence
Karen Moldovan	Program Manager, Colorado Coalition Against Sexual Assault	Victims of Sexual Assault
Sam Murillo, MSW	Director of Navigation Programs, Family Voices Colorado	Disability Rights
Bonnie Saltzman, Esq.	Attorney, Family and Juvenile Law, Saltzman Law Offices	Juvenile Law
Michael Valentine, Esq.	Deputy County Attorney, Arapahoe County Attorney's Office	County Department of Child Protective Services

Support to the Task Force

Name	Affiliation	Role
William Browning	CEO/President, Rebound Solutions	Administrative Support
Jill Bruton, MSW	Analyst, Rebound Solutions	Administrative and Facilitation Support
Lorii Rabinowitz	Vice President, Rebound Solutions	Strategic Facilitation and Compilation of Final Report
Sarah Sills, MPA, MSTC	Legislative Liaison, Colorado Department of Human Services	Liaison between Rebound Solutions and State of Colorado

Appendix D – Subcommittee Members

Child Perspective Subcommittee

Name	Affiliation	Interests Represented
David Blake, Esq.	Attorney General's Office	Attorney General's Office
Trish Cooper, Esq.	Family Law Attorney, Law Office of Stephen J. Harhai	Family Law
Tiffany Flores, MSW	Child Protection Services Manager, Office of Children, Youth and Families, Division of Child Welfare, Colorado Department of Human Services	State of Colorado Department of Human Services
Todd Hyman, MPA	Permanency Advisor, Arapahoe County Department of Human Services	County Department of Human Services
Karen Moldovan	Program Manager, Colorado Coalition Against Sexual Assault	Victims of Sexual Assault
Bonnie Saltzman, Esq.	Attorney, Family and Juvenile Law, Saltzman Law Offices	Juvenile Law

Victim's Rights Subcommittee

Name	Affiliation	Interests Represented
Sherry Caloia, Esq.	9 th Judicial District Attorney	Colorado District Attorney
G.I.	Mother of a child conceived by rape, victim of sexual assault	Victims of Sexual Assault/ Parents of Children Conceived by Rape
Wilene Lampert	Executive Director, Safe Passage	Advocacy for Children
Nancy Lewis	Executive Director, Colorado Organization for Victim Assistance	Advocacy for Victims of Crime
Dorothy Macias, JD	Staff Attorney, Office of the Child's Representative	Office of the Child's Representative
Sam Murillo, MSW	Director of Navigation Programs, Family Voices Colorado	Disability Rights

Alleged Perpetrator’s Rights Subcommittee

Name	Affiliation	Interests Represented
Maureen Cain, Esq.	Criminal Defense Attorney, Private Practice, Colorado Criminal Defense Board	Criminal Law
Kim Johnson	Interim Child Welfare Supervisor, Denver Indian Family Resource Center	Federal “Indian Child Welfare Act”
Honorable Robert Lowenbach, Esq.	Judge, 19th Judicial District (Retired)	Judicial Branch
Amy Miller, MSW	Public Policy Director, Colorado Coalition Against Domestic Violence	Victims of Domestic Violence
Michael Valentine, Esq.	Deputy County Attorney, Arapahoe County Attorney’s Office	County Department of Child Protective Services

Appendix E – List of Acronyms

Acronym	Full Name
APR	Allocation of Parental Responsibilities
CRCP	Colorado Rules of Civic Procedure
D&N	Dependency and Neglect
C.R.S.	Colorado Revised Statutes
GAL	Guardian Ad Litem
ICWA	Indian Child Welfare Act